

Mildred K. O'Linn (State Bar No. 159055)
 Tony M. Sain (State Bar No. 251626)
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
 801 S. Figueroa St, 15th Floor
 Los Angeles, California 90017-3012
 Telephone: (213) 624-6900
 Facsimile: (213) 624-6999
mko@manningllp.com; tms@manningllp.com

Attorneys for Defendants,
 CITY OF MANHATTAN BEACH;
 OFFICER MICHAEL LYNCH; AND
 OFFICER BRANDON MUZATKO

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

FERREOL CARDENAS, SR.,
 Individually, and as the Personal
 Representative for FERREOL
 CARDENAS, JR., Deceased, and
 ROSA CARDENAS,

Plaintiffs,

v.

CITY OF MANHATTAN BEACH,
 MANHATTAN BEACH POLICE
 OFFICER MICHAEL LYNCH (Serial
 No. 313), MANHATTAN BEACH
 POLICE OFFICER B. MUZATKO
 (Serial No. 342) and Does 1 through 10,
 inclusive,

Defendants.

Case No. 2:15-CV-01469-PJW
*[Assigned For All Purposes to the Hon.
 Patrick J. Walsh, Magistrate Judge]*

**APPENDIX OF EVIDENCE IN
 SUPPORT OF DEFENDANTS'
 MOTION FOR SUMMARY
 JUDGMENT; DECLARATION OF
 TONY M. SAIN**

Hearing Date: January 9, 2017
 Time: 1:30 p.m.
 Ctrm.: 23 (Spring)

Complaint Filed: 03/01/2015
 Trial Date: 03/21/2017

TO PLAINTIFFS, ALL PARTIES, AND THEIR ATTORNEYS HEREIN:

PLEASE TAKE NOTICE that – pursuant to applicable federal laws including but not limited to Federal Rules of Civil Procedure 7, 11, 16, and 56, as well as U.S. Dist. Ct., C.D. Cal. L.R. 56-1 through 56-4, and all applicable Orders of the Court – defendants CITY OF MANHATTAN BEACH ("City"); OFFICER MICHAEL LYNCH and OFFICER BRANDON MUZATKO ("Officer Defendants") (collectively

herein after as "Defendants") hereby submit this Appendix of Evidence in support of Defendants' Motion for Summary Judgment, or in the Alternative Partial Summary Judgment (filed concurrently herewith).

EVIDENCE FOR DEFENDANTS' SUMMARY JUDGMENT MOTION.

The following evidence supports defendants' motion for summary judgment:

A. CD of Dash Cam Video Recording of the Manhattan Beach Police Department ("MBPD") dated April 10, 2014.

B. Transcript of deposition of Officer Michael Lynch, taken on August 11, 2016 (pertinent portions) and Exhibit 1, MBPD Crime Report No. 14-1092 and Exhibit 2, Overhead Diagram of Incident Scene.

C. Transcript of deposition of Officer Bryan Muzatko, taken on August 12, 2016 (pertinent portions).

D. Transcript of deposition of Officer Anthony Presgraves, taken on August 12, 2016 (pertinent portions).

E. Transcript of deposition of witness Kevin James Heronema, taken on October 26, 2016 (pertinent portions).

F. Transcript of deposition of witness Richard Towne, taken on October 26, 2016 (pertinent portions).

G. Transcript of deposition of witness Robert Chavez, M.D., taken on October 27, 2016 (pertinent portions).

H. Transcript of deposition of witness J. Daniel Augustine, M.D., taken on April 27, 2016 (pertinent portions) and Exhibit 1, Coroner's Autopsy Report.

I. Transcript of deposition of witness Brian Kim, taken on August 25, 2016 (pertinent portions).

J. Transcript of deposition of witness Cho Lwin, M.D., taken on October 19, 2016 (pertinent portions).

K. Transcript of deposition of witness Marvin Pietruszka, M.D., taken on November 18, 2016 (pertinent portions).

1 L. County of Los Angeles Sheriff's Department Supplemental Report
2 [MBPD 00059].

3 M. Cardenas' Medical Records from Little Company of Mary Medical
4 Center (pertinent portions).

5 N. Plaintiff's Responses to Defendant City of Manhattan Beach's Request
6 for Admissions, Set One (pertinent portions).

7 O. Manhattan Beach Police Department Policy Manual (pertinent
8 portions).

9 P. Letter from Plaintiffs' Counsel responding to defendants' meet and
10 confer efforts, dated December 5, 2016.

11 Q. Expert Report of Charles V. Wetli, M.D., dated September 26, 2016.
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13 DATED: December 12, 2016

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

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16 By: /s/ Tony M. Sain

Mildred K. O'Linn, Esq.

Tony M. Sain, Esq.

Attorneys for Defendants,

17 CITY OF MANHATTAN BEACH;

18 OFFICER MICHAEL LYNCH; AND

19 OFFICER BRANDON MUZATKO
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DECLARATION OF TONY M. SAIN

I, Tony M. Sain, state and declare as follows:

1. I am an attorney at law duly authorized to practice before all the courts of the State of California and in all of the United States District Courts within California. I am a Partner in the law firm of Manning & Kass, Ellrod, Ramirez, Trester LLP, attorneys of record herein for defendants CITY OF MANHATTAN BEACH ("City"); OFFICER MICHAEL LYNCH and OFFICER BRANDON MUZATKO ("Officer Defendants") (collectively herein after as "Defendants"). If called and sworn as a witness to testify, I am competent to testify and would testify from my own personal knowledge as to the facts set forth in this declaration, except as to those matters that are stated on information and belief herein.

2. This declaration is made in support of Defendants' Motion for Summary Judgment, or in the Alternative Partial Summary Judgment, filed concurrently herewith.

3. Attached as Exhibit "A" to this declaration and appendix of evidence is a true and correct copy of a CD containing the Dash Cam Video Recording of the Manhattan Beach Police Department ("MBPD") dated April 10, 2014.

4. Attached as Exhibit "B" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of Officer Michael Lynch, taken on August 11, 2016; Exhibit 1 to that deposition, the MBPD Crime Report No. 14-1092; and Exhibit 2 to that deposition, an Overhead Diagram of Incident Scene.

5. Attached as Exhibit "C" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of Officer Bryan Muzatko, taken on August 12, 2016.

6. Attached as Exhibit "D" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of Officer Anthony Presgraves, taken on August 12, 2016.

7. Attached as Exhibit "E" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness Kevin James Heronema, taken on October 26, 2016.

8. Attached as Exhibit "F" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness Richard Towne, taken on October 26, 2016.

9. Attached as Exhibit "G" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness Robert Chavez, M.D., taken on October 27, 2016.

10. Attached as Exhibit "H" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness J. Daniel Augustine, M.D., taken on April 27, 2016 and Exhibit 1 to that deposition, the Coroner's Autopsy Report.

11. Attached as Exhibit "I" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness Brian Kim, taken on August 25, 2016.

12. Attached as Exhibit "J" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness Cho Lwin, M.D., taken on October 19, 2016.

13. Attached as Exhibit "K" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of the transcript of deposition of witness Marvin Pietruszka, M.D., taken on November 18, 2016.

14. Attached as Exhibit "L" to this declaration and appendix of evidence is a true and correct copy of the County of Los Angeles Sheriff's Department Supplemental Report [MBPD 00059].

15. Attached as Exhibit "M" to this declaration and appendix of evidence is a true and correct copy of the pertinent portions of decedent Cardenas' Medical Records from Little Company of Mary Medical Center.

